

Pearson v. Callahan

--- U.S. --- (2009)

Decided January 21, 2009

FACTS: In 2002, Bartholomew, a narcotics task force informant, told Officer Whatcott (Central Utah Narcotics Task Force) that Callahan “had arranged to sell Bartholomew methamphetamine later that day.” He went to Callahan’s home at about 8 p.m. on the night in question, and confirmed that the methamphetamine was available and for sale. He then told Callahan he needed to go get money for the purchase, and left to meet the task force members. He was searched and given money for the buy, along with a transmitter.

Officers drove Bartholomew to Callahan’s home, and he was admitted by Callahan’s daughter. Callahan parceled out a gram of methamphetamine and made the transaction. Bartholomew gave the agreed-upon signal, and officers entered through the porch. The officers saw Callahan drop what was later determined to be methamphetamine. They arrested Callahan, and did a protective sweep of the home. At some point, they found syringes in the home as well. Callahan was charged.

Although the trial court admitted the evidence, finding that “the warrantless arrest and search were supported by exigent circumstances”, upon appeal, the “Utah attorney general conceded the absence of exigent circumstances, but urged that the inevitable discovery doctrine justified introduction of the fruits of the warrantless search.” However, the Utah Court of Appeals disagreed and vacated Callahan’s conviction. He then filed suit under 42 U.S.C. §1983, “alleging that the officers had violated the Fourth Amendment by entering his home without a warrant.”

The officers moved for summary judgment, which the U.S. District Court granted, “noting that other courts had adopted the ‘consent-once-removed’ doctrine.” That “permits a warrantless entry by police officers into a home when consent to enter has already been granted to an undercover officer or informant who has observed contraband in plain view.” Although the District Court stated that it believed that the principle would change in the future, given that it was “in tension” with the decision in Georgia v. Randolph,¹ the Court agreed that the “officers were entitled to qualified immunity because they could reasonably have believed that the consent-once-removed doctrine authorized their conduct.”

The Tenth Circuit Court of Appeals disagreed, holding that the officers’ actions violated Callahan’s Fourth Amendment rights. The panel “took no issue with application of the doctrine when the initial consent was granted to an undercover law enforcement officer, but the majority disagreed with decisions that ‘broade[n] this doctrine to grant informants the same capabilities as undercover officers.” Further, the Court ruled that the right was clearly established in the Circuit, given that the officers knew they did not have a warrant, that Callahan “had not consented to their entry,” and that “consent to the entry of an informant could not reasonably be interpreted to extend to them.”

The Court noted that the Tenth Circuit followed the analysis laid out in Saucier v. Katz². However, the Court acknowledged that Saucier “has been criticized by courts at all levels,” and that “lower

¹ 547 U.S. 103 (2006).

² 533 U.S. 194 (2001).

court judges, who have been required to apply the procedure in a great variety of cases and thus have much firsthand experience bearing on its advantages and disadvantages."

The defendant officers requested certiorari for the denial of qualified immunity, which the U.S. Supreme Court granted.

ISSUE: Are the courts required to use the two-pronged Saucier analysis in deciding qualified-immunity cases?

HOLDING: No

DISCUSSION: The Court reviewed the doctrine of qualified immunity, which 'protects government officials 'from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'"³

The Court continued:

Qualified immunity balances two important interests – the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably.

The protections afforded by qualified immunity "applies regardless of whether the government official's error is a 'mistake of law, a mistake of fact, or a mistake based on mixed questions of law and fact.'" Further, the Court emphasized, it had "made clear that the 'driving force' behind creation of the qualified immunity doctrine was a desire to ensure that 'insubstantial claims' against government officials [will] be resolved prior to discovery."⁴ It stated that "[b]ecause qualified immunity is 'an immunity from suit rather than a mere defense to liability ... it is effectively lost if a case is erroneously permitted to go to trial.'" As such, the Court has "repeatedly ... stressed the importance of resolving immunity questions at the earliest possible stage in litigation."⁵

In Saucier, the "Court mandated a two-step sequence for resolving government officials' qualified immunity claims."

First, a court must decide whether the facts that a plaintiff has alleged or shown make out a violation of a constitutional right. Second, if the plaintiff has satisfied this first step, the court must decide whether the right at issue was 'clearly established' at the time of defendant's alleged misconduct. Qualified immunity is applicable unless the official's conduct violated a clearly established constitutional right.

Prior to Saucier, the Court had held that "the better approach to resolving cases in which the defense of qualified immunity is raised is to determine first whether the plaintiff has alleged a

³ See Harlow v. Fitzgerald, 457 U.S. 800 (1982).

⁴ See Anderson v. Creighton, 483 U.S. 635 (1987)

⁵ Hunter v. Bryant, 502 U.S. 224 (1991).

deprivation of a constitutional right at all.”⁶ Saucier “made that suggestion a mandate,” requiring that the question of the constitutionality of the officer’s actions “*must* be the initial inquiry.”

In the case at bar, the Court discussed “whether the Saucier procedure should be modified or abandoned.” First, the Court addressed the doctrine of stare decisis, and noted that reconsideration of prior decisions must be approached with “utmost caution,” but stopped short of making it “an inexorable command.”

The Court noted that:

Because of the basis and the nature of the Saucier two-step protocol, it is sufficient that we now have a considerable body of new experience to consider regarding the consequences of requiring adherence to this inflexible procedure. This experience supports our present determination that a mandatory two-step rule for resolving all qualified immunity claims should not be retained.

The Court concluded that “while the sequence set forth [in Saucier] there is often appropriate, it should no longer be regarded as mandatory.” Instead, the lower courts “should be permitted to exercise their sound discretion in deciding which of the two prongs of the qualified immunity analysis should be addressed first in light of the circumstances in the particular case at hand.”

The Court “continue[d] to recognize that it is often beneficial” to use the Saucier analysis.” “At the same time, however, the rigid Saucier procedure comes with a price.” It “sometimes results in a substantial expenditure of scarce judicial resources on difficult questions that have no effect on the outcome of the case.” Some cases are “so fact-bound that the decision provides little guidance for future cases.” In addition, a “constitutional decision resting on an uncertain interpretation of state law is also of doubtful precedential importance,” leading some courts to skip that first step in the analysis.

The Court concluded that its decision “does not prevent the lower courts from following the Saucier procedure; it simply recognizes that those courts should have the discretion to decide whether that procedure is worthwhile in particular cases.”

With respect to the case the bar, the Court concluded that the conduct of the officers did not violate clearly established law. As such, the officers were entitled to qualified immunity. In 2002, the ‘consent-once-removed’ doctrine had gained acceptance in the lower courts.” Although the Tenth Circuit had not ruled upon the issue, “no court of appeals had issued a contrary decision.” As such, the “officers ... were entitled to rely on those cases.”

The decision of the Tenth Circuit Court of Appeals was reversed, and the officers granted qualified immunity.

FULL TEXT OF OPINION: <http://www.supremecourtus.gov/opinions/08pdf/07-751.pdf>

⁶ County of Sacramento v. Lewis, 523 U.S. 833 (1998).